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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1186 OF 2015

Ms Ranjan M. Patel ...Petitioner
vs.
Municipal Corporation of
Greater Mumbai & Anr. ...Respondents

Mr.Nitin Parkha i/b Arun Panickar for the Petitioner
Ms Shobha Ajitkumar for the BMC

CORAM : A.S.OKA, &
C.V.BHADANG,JJ.
DATE : JANUARY 11, 2016

P.C.:

1 Rule. The learned counsel for the respondents waive service. Forthwith taken up for final disposal. The substantive challenge in this petition under Article 226 of the Constitution of India is to the communication dated 1st April 2015 (Exhibit-A to the petition).

2 On 19th March 2015, the Architect appointed by the petitioner submitted a proposal for redevelopment of the property subject matter of this petition on the basis of the Judgment and Order dated 17th February 2015 passed by this Court in Writ Petition No.2035 of 2014(Orbit Corporation Limited and another vs. Union of India and others). By the impugned communication dated 1st April 2015, the said proposal has been rejected. In the said impugned communication addressed to the Architect of the

petitioner, an Officer of the respondent No.1 has stated thus:

"With reference to your above referred letter this is to inform you that the bldg comprising of Gr+1 floor was declared dilapidated and unsafe on 1.10.2013 i.e after prescribing date line of 6.1.2011 and proposal could not be processed as per DCR 1991. Further the court order dated 17.2.2015 in W.P.No.2035 of 2014 can not be made applicable as the MCGM is not respondent."

(Underline added)

2 The learned counsel for the respondent No.1 -Mumbai Municipal Corporation submits that she is not sure whether a modified notification has been issued in terms of the Judgment and order of this Court dated 17th February 2015.

3 If it is the case of the Municipal Corporation that a modified notification has been issued, the same could have been taken into consideration while considering the proposal of the petitioner. However, the proposal could not have been rejected on the ground that the Municipal Corporation was not a party to the writ petition in which the Judgment and Order dated 17th February 2015 was passed by this Court.

4 By the said Judgment and order dated 17th
February 2015, corrigendum dated 29th March 2011
issued to the notification dated 6th January 2011 was
held as illegal. However, liberty was granted to
the Central Government to modify the notification
dated 6th January 2011.

5 Apart from the contention that the Mumbai
Municipal Corporation was very much a party to the
Writ Petition No.2035 of 2014, in any event, the
Municipal Corporation was bound by the Judgment and
order dated 17th February 2015.

6 Hence, we pass the following order:

- (I) The impugned communication dated 1st April
2015 is hereby set aside;
- (II) We direct the appropriate Officer of the
respondent No.1 to consider the proposal dated
19th March 2015 submitted by the petitioner's
Architect in the light of the Judgment and
order dated 17th February 2015 in Writ Petition
No.2035 of 2014;
- (III) Needless to record that if the Coastal
Regulation Zone notification dated 6th January
2011 has been modified by the Central
Government in terms of the liberty granted by
this Court under the Judgment and order dated
17th February 2015, while considering the
proposal submitted by the petitioner's
Architect, the modification will have to be
taken into consideration in accordance with

law;

(IV) Fresh decision shall be taken on the proposal dated 19th March 2013 within two months from today;

(V) Rule is partly made absolute on above terms;

(VI) There will be no order as to costs.

(C.V.BHADANG,J.)

(A.S.OKA,J.)